



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Matthew Hoppock
MuckRock News
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Somerville, MA 02144-2516
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Re: Appeal No. DOJ-AP-2019-000724
Request No. 2018-37357
JNW:JKD

VIA: Email

Dear Matthew Hoppock:

You appealed from the action of the Executive Office for Immigration Review (EOIR) on your Freedom of Information Act request for access to all correspondence mentioning "Pereira" to or from James McHenry or Print Maggard, the calendars for Print Maggard and James McHenry for June 2018, and any records referencing phone conferences regarding the Supreme Court's decision in Pereira v. Sessions from June 21, 2018. I note that your appeal concerns EOIR's determination that certain material is not responsive to your request. Please note that this Office was closed due to a lapse in funding appropriations between December 22, 2018 and January 25, 2019, which resulted in a delay in responding to your appeal.

After carefully considering your appeal, and as a result of discussions between EOIR personnel and this Office, I am remanding your request to EOIR for further processing of one page previously marked non-responsive. If EOIR determines that additional records are releasable, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by EOIR. If you would like to inquire about the status of this remanded request or to receive an estimated date of completion, please contact EOIR directly at 703-605-1297.

I am otherwise affirming, on partly modified grounds, EOIR's action on your request. I have determined that EOIR properly marked certain records as not responsive to your request. Additionally, with regard to a four-page email chain in which portions were released to you and portions were deemed to be non-responsive to your request, I have determined that this material is responsive to your request, but is properly protected from disclosure under the FOIA. Specifically, this information is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(5) and it is reasonably foreseeable that disclosure of this information would harm the interests protected by this provision. This provision concerns certain inter- and intra-agency records protected by the deliberative process privilege.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of EOIR in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

7/29/2019

X 

Sean R. O'Neill
Chief, Administrative Appeals Staff
Signed by: SEAN O'NEILL